IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

IN THE MATTER OF THE COMPLAINT OF CENTRAL CONTRACTING & MARINE, INC. FOR EXONERATION FROM, OR LIMITATION OF, LIABILITY.	))))))	Case No. 4:15-cv-01111-HEA In Admiralty

CENTRAL CONTRACTING'S MOTION TO COMPEL
AGAINST ST. LOUIS BRIDGE CONSTRUCTION COMPANY

COMES NOW Plaintiff Central Contracting & Marine, Inc. ("Central") and, for its Motion to Compel against claimant St. Louis Bridge Construction Company ("St. Louis Bridge"), states as follows:

1. On July 18, 2015, Central filed its Complaint in this matter under the provisions of the Limitation of Shipowner's Liability Act. The incident involves an allision on the Mississippi River between a commercial river towboat and low-hanging construction scaffolding at the Eads Bridge Rehabilitation Project in St. Louis. St. Louis Bridge was the general contractor for this construction project.

2. Central has filed a third-party complaint against St. Louis Bridge arising from the allision and St. Louis Bridge has filed a claim for damages against Central. Docs. 10 and 57.

3. The incident at issue occurred on July 16, 2015, and was at least the fourth time during the prior twelve months and six days that the low-hanging construction scaffolding was contacted by commercial river traffic. Prior allisions had occurred between commercial river traffic and low-hanging construction scaffolding on July 10, 2014, June 28, 2015, and June 30, 2015.

4. This first issue in this motion is whether St. Louis Bridge should be ordered to produce documents about these three prior allisions, all of which similarly involve commercial river traffic contacting the low-hanging construction scaffolding at the same construction site. Central has made numerous discovery requests related to these prior allisions, but St. Louis Bridge has objected to such requests, on the grounds of relevance. Attached as Exhibits G and H are copies of Central's discovery requests and Bridge's objections.

6. As set forth in the attached Memorandum of Law, the law permits Central to conduct discovery about these similar prior occurrences. These prior allisions are relevant and probative to many disputed issues in the case, including at least the following:

- Bridge long had notice that the low-hanging scaffolding presented unreasonable risks and dangers to the vessel traffic and bridge workers;
- Bridge should have had a proper safety plan in place to protect the bridge and its workers from risks presented by commercial river traffic;
- The scaffolding—damaged or otherwise—unreasonably and/or unlawfully obstructed navigation on the Mississippi River;
- Bridge should have raised the low-hanging scaffolding after the first, second, or at least third prior allisions;
- Bridge should not have permitted workers back on the scaffolding after the second and third incidents until it had been inspected and repaired properly;
- The prior allisions are at least partially responsible for the damages being alleged against Central and discovery is also appropriate to determine the extent to which the prior incidents compromised the scaffolding's structural stability and original design.

Discovery concerning all of these issues is appropriate and should be permitted.

7. The second issue concerns St. Louis Bridge's refusal to produce handwritten statements written after the incident by many of its employees pursuant to a company safety policy relating to accident investigation, all of which were done without the presence of

attorneys. St. Louis Bridge claims the statements are privileged from discovery but the law does not support its position.

8. Counsel for Central has made a good faith effort to resolve these disputes with St. Louis Bridge's counsel, including two face-to-face meetings. The parties have not been able to resolve this dispute without court intervention.

WHEREFORE, Central requests an Order overruling all of St. Louis Bridge's objections to discovery related to prior allisions and provide complete responses to Central's Interrogatories and Request for Production of Documents on these topics, within ten (10) days and for such other and further relief which to the court seems just and proper.

GOLDSTEIN and PRICE, L.C.
and Douglas E. Gossow (MO #35525)
and Neal W. Settergren (MO #50721)
and Giles B. Howard (MO #67215)

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CERTIFICATE OF SERVICE

I certify that on January 5, 2017, the foregoing document was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system on all counsel of record

/s/ *Neal W. Settergren*